

Q300

Dynamic blocking injunctions

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Respondent

6

Anonymous

64:51

Time to complete

Contact details

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Hungarian Group

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I) Current law and practice

Please answer the below questions with regard to your Group's current law and practice.

Please answer all questions in Part I on the basis of your Group's current law. You may differentiate your answers based on different IP rights if applicable under your Group's current law.

5. **A. Recognition of Dynamic Injunctions:**

1) Does your jurisdiction recognise Dynamic Injunctions to enforce IPRs?

If you answered YES to question A above, please continue answering all questions below. If you answered NO to question A above, please move directly to Part III below.

☐ Yes

☒ No

III. Proposals for harmonisation

Please consult with relevant in-house / industry members of your Group in responding to Part III.

6. A. **Recognition & Availability of Dynamic Injunctions:**

21) Should Dynamic Injunctions be recognized and granted to enforce IPRs?

☒ Yes

☐ No

7. 21) (continued) Please provide a brief description, if any

Yes, for all IPRs, in particular for online distribution of counterfeit goods, unauthorized streaming of live events, and pirated digital content.

Hungary's legal system belongs to the continental European civil law tradition, which is characterised by codified statutes as the primary source of law. The jurisdiction of courts is related to the application of the law; that is, judges do not make the law. Judicial decisions do not constitute binding precedent in the common law sense.

In Hungarian substantive IP laws, there are no statutory provisions on Dynamic Injunctions. Hungarian IP laws, like those of other EU Member States, contain "closed lists" of activities that constitute infringement. The Hungarian group's view is that if Dynamic Injunctions are not mentioned in said lists, Hungarian courts would be reluctant to order Dynamic Injunctions. It should be noted, however, that the Copyright Act contains provisions addressing the prevention of future uploads of protected content by online content-sharing service providers. These provisions implement Article 17(4) of the EU Directive on Copyright in the Digital Single Market (EU 2019/790) and, as such, are limited to the liability of content-sharing platforms for copyright-protected content uploaded by users. They do not contain any specific provisions on procedural matters, such as enforcement.

Furthermore, in Hungarian civil litigation there is a general requirement to put forward clearly stated claims – the test for said clarity is whether, if such claims were incorporated into a judgment, a court bailiff would be able to enforce them?

With respect to execution of an injunction, Dynamic Injunctions would require specific provisions in the Hungarian Act on Judicial Enforcement. Currently there are no such provisions in this act.

8. 22) Is there a need to amend legal statutes to recognize Dynamic Injunctions?

☒ Yes

☐ No

9. 22) (continued) Please provide a brief description, if any

Yes, as Dynamic Injunctions are not recognised under Hungarian law. In order to allow Dynamic Injunctions, either the laws on IPRs or the law on civil procedure shall regulate how a Dynamic Injunction could be sought, and how it works from a procedural perspective. As regards the latter, we consider it important to decide whether a Dynamic Injunction could be sought with respect to a certain activity (which, in theory, allows the plaintiff to implead further defendants) or vis-à-vis another party (meaning that no impleadment is possible).

There are Dynamic Injunctions in non-IP law. The Criminal Code (substantive law) and the Criminal Procedural Code (procedural law) contain provisions on temporary or permanent blocking orders. Furthermore, in relation to online sport betting, the Supervisory Authority for Regulatory Affairs (in Hungarian: Szabályozott Tevékenységek Felügyeleti Hatósága, abbreviated as "SARA" in English or "SZTFH" in Hungarian) has the power to order the blocking of online gambling websites or services operated outside of Hungary but accessible by customers in Hungary. The Hungarian Gambling Act contains substantive and procedural provisions enabling SARA to issue temporary or permanent blocking orders. The regulator publishes blocking orders on its website. Temporary blocking orders are immediately enforceable. Such orders are deemed as served on the operator on the third day after the date of publication. The Gambling Act further provides that Hungarian internet access providers must comply with said orders.

Both the Criminal Procedural Code and the Gambling Act address the scope of blocking orders, which extends to copies of electronic data or alternative means of access to electronic data.

The Electronic Communications Act imposes obligations on electronic communications service providers (ISPs) to assist with the execution of temporary or permanent blocking orders within their networks and systems. The National Media and Communications Authority (in Hungarian: Nemzeti Média- és Hírközlési Hatóság, abbreviated as "NMCA" in English or "NMHH" in Hungarian) operates two databases: (i) the Central Database of Electronic Blocking Orders (in Hungarian: Központi Elektronikus Hozzáférhetetlenné Tételi Határozatok Adatbázisa, abbreviated as "KEHTA" in Hungarian or "CDEBO" in English; and (ii) the Technical Assistance System (in Hungarian: Technikai Segítségnyújtó Rendszer, abbreviated as "TSR" in Hungarian or "TAS" in English). The latter serves as an effective tool for ISPs to comply with temporary or permanent blocking orders.

In criminal proceedings, law enforcement authorities, public prosecutors or courts may order temporary or permanent blocking orders, which are entered into CDEBO and – via TAS – ISPs block access by Hungarian users to the electronic data affected by the order.

In the field of the ccTLD .hu, the Hotline Arbitration Forum (in Hungarian: Hotline Döntnöki Fórum, abbreviated as "HDF" in Hungarian or "HAF" in English) can shut down domain names under which certain types of illegal content are available, including photos published without consent of the depicted individual, content depicting violence or use of drugs, etc. However, IPRs are not included in the list of covered content, and accordingly this mechanism is not available in respect of IPR-infringing content hosted under .hu domain names.

10. **23)** For which IPRs Dynamic Injunctions be applicable/granted:

- ☒ i. Copyrights **Yes**
- ☐ i. Copyrights **No**
- ☒ ii. Trademarks **Yes**
- ☐ ii. Trademarks **No**
- ☒ iii. Designs **Yes**
- ☐ iii. Designs **No**
- ☒ iv. Patents **Yes**
- ☐ iv. Patents **No**
- ☒ v. Geographical Indications **Yes**
- ☐ v. Geographical Indications **No**
- ☒ vi. Trade Secrets **Yes**
- ☐ vi. Trade Secrets **No**
- ☐ vii. Others **Yes**
- ☒ vii. Others **No**

11. **23) (continued)** Please provide a brief description, if any

No answer provided.

12. **24)** In which situations should Dynamic Injunctions be typically granted:

- ☒ i. Movie Piracy **Yes**
- ☐ i. Movie Piracy **No**
- ☒ ii. Unauthorized streaming of live events **Yes**
- ☐ ii. Unauthorized streaming of live events **No**
- ☒ iii. Counterfeits **Yes**
- ☐ iii. Counterfeits **No**
- ☒ iv. AI-Generated Content **Yes**
- ☐ iv. AI-Generated Content **No**
- ☒ v. Deep-fakes **Yes**
- ☐ v. Deep-fakes **No**
- ☐ vi. Others **Yes**
- ☒ vi. Others **No**

13. **24) (continued)** Please provide a brief description, if any

No answer provided.

14. **25)** What categories of dynamic Injunctions should be granted in your jurisdiction?

- ☒ i. Complete blocking of Rogue/mirror websites **Yes**
- ☐ i. Complete blocking of Rogue/mirror websites **No**
- ☒ ii. Specific URL of rogue contents **Yes**
- ☐ ii. Specific URL of rogue contents **No**
- ☒ iii. Blocking of key-words/domain name **Yes**
- ☐ iii. Blocking of key-words/domain name **No**
- ☒ iv. Take down orders for infringing/rogue accounts on e-commerce and social media **Yes**
- ☐ iv. Take down orders for infringing/rogue accounts on e-commerce and social media **No**
- ☒ v. Blocking of live-streaming **Yes**
- ☐ v. Blocking of live-streaming **No**
- ☒ vi. App blocking **Yes**
- ☐ vi. App blocking **No**
- ☐ vii. Others **Yes**
- ☒ vii. Others **No**

15. **25) (continued)** Please provide a brief explanation, if any.

No answer provided.

16. **B. Authority for Granting Dynamic Injunctions:**

26) Which should be the authority before which an application for Dynamic Injunction ought to be filed in your jurisdiction?

- ☐ i. IP authority **Yes**
- ☒ i. IP authority **No**
- ☒ ii. Court **Yes**
- ☐ ii. Court **No**
- ☐ iii. Other governmental body? **Yes**
- ☒ iii. Other governmental body? **No**
- ☐ iv. Other? **Yes**
- ☒ iv. Other? **No**

17. **26)** (continued) Please add a brief explanation, if any

It follows from the above that, should the granting of a Dynamic Injunction be sought, the appropriate forum would be the courts rather than the HIPO. This conclusion is further reinforced by the broader characteristics of the Hungarian legal environment, which — in the absence of a dedicated statutory framework for Dynamic Injunctions and given the lack of any administrative enforcement mechanism capable of issuing such relief — necessarily places the competence to grant Dynamic Injunctions within the exclusive jurisdiction of the judiciary.

Dynamic Injunctions require specific and effective executions methods. According to the Hungarian working group, if Dynamic Injunctions would be available for IPRs, then these should be fed into the databases operated by the supervisory authority for ISPs (see Q1) so that ISPs automatically comply with said orders. In the Hungarian working group's view, the legal framework allowing Dynamic Injunctions shall also contain adequate and modernized rules concerning the enforcement of any such decisions. Nowadays, the enforcement of judgments concerning IPRs are carried out like other, more „traditional“ court decisions, which can oftentimes lead to further disputes, especially concerning online infringements. Therefore, we believe that an effective enforcement method shall be introduced, potentially involving bodies responsible for electronic communication such as the National Media and Communications Authority (see above).

18. **27)** Should the decision of grant/refusal be appealable?

☒ Yes

☐ No

19. **27)** (continued) Please add a brief explanation, if any

Yes, and appeal should not affect enforceability. Under Hungarian law a preliminary injunction is enforceable regardless of an appeal. Court proceeding in both first instance and second instance are expedited. The same principles should apply to Dynamic Injunctions.

20. **28)** Please select what should be the factors considered by the authority in your jurisdiction for grant of Dynamic Injunction?

☒ i. Special damage entitling right holder to a Dynamic Injunction? **Yes**

☐ i. Special damage entitling right holder to a Dynamic Injunction? **No**

☒ ii. Traditional injunctions would not suffice for the violation? **Yes**

☐ ii. Traditional injunctions would not suffice for the violation? **No**

☒ iii. Public interest considerations for grant of a Dynamic Injunction? **Yes**

☐ iii. Public interest considerations for grant of a Dynamic Injunction? **No**

☒ iv. Special urgency for grant of a Dynamic Injunction? **Yes**

☐ iv. Special urgency for grant of a Dynamic Injunction? **No**

☒ v. Defendant/Infringer is a repeat/rogue infringer, warranting of dynamic injunction **Yes**

☐ v. Defendant/Infringer is a repeat/rogue infringer, warranting of dynamic injunction **No**

☒ vi. Any other factor? **Yes**

☐ vi. Any other factor? **No**

21. **28)** (continued) Please add a brief explanation, if any

It should be necessary to examine the exclusivity of the relevant IPRs regarding the territory of the given country, as well as the degree of bad faith on the part of the infringing party, both of which are likely to be material considerations in the court's assessment of whether a Dynamic Injunction should be granted.

22. **29)** While granting dynamic injunctions, please select how should authorities assess the evidence?

- ☒ i. Illustrative evidence provided by Plaintiff to assert that an Infringer is a rogue infringer/website (Qualitative test) **Yes**
- ☐ i. Illustrative evidence provided by Plaintiff to assert that an Infringer is a rogue infringer/website (Qualitative test) **No**
- ☐ Voluminous evidence must be provided that the activities of the infringer consist of piracy/counterfeiting (Quantitative test) **Yes**
- ☒ Voluminous evidence must be provided that the activities of the infringer consist of piracy/counterfeiting (Quantitative test) **No**
- ☐ vii. Any other test? **Yes**
- ☒ vii. Any other test? **No**

23. **29)** (continued) Please add a brief explanation, if any

Granting of a Dynamic Injunction should not require the court to engage in extensive substantive analysis or multi-factorial testing. Rather, the court's examination at this stage ought to be confined to verifying that the IPRs in question genuinely vest in the applicant, and that the content sought to be removed by way of the Dynamic Injunction does, or foreseeably may, infringe those rights. All further balancing exercises and substantive assessments — including questions of proportionality, the extent of the infringement, and any defences raised by the respondent — should properly be reserved for the main infringement proceedings. A similar approach should apply in the context of preliminary injunction (PI) proceedings, where the applicable standard is not full proof of infringement, but rather a showing of a likelihood (or probability) of infringement.

That said, while this standard is formally lower, its practical application may differ across various categories of IPRs. In certain cases – particularly where infringement can be demonstrated based on objective and easily verifiable elements, such as the use of an identical sign in trademark cases or the reproduction of protected content – this threshold can typically be satisfied without difficulty.

By contrast, in more complex areas, such as patent infringement or trade secrets, even establishing a likelihood of infringement may involve a degree of technical or factual analysis which, in practice, may come close to a more substantive assessment. In such situations, courts may be inclined to adopt a more cautious approach when evaluating whether the probability of infringement has been sufficiently demonstrated, which may, in some instances, lead to the refusal of PIs where the alleged infringement is not immediately apparent.

This distinction is also relevant in the context of dynamic injunctions. While such measures are most readily applicable in cases where infringement is clear, repeatable, and capable of being identified without complex assessment, their use need not be excluded in more complex scenarios. Rather, it suggests that their formulation should be carefully tailored, in particular by defining their scope through objective and verifiable criteria that limit their application to clearly identifiable instances of infringement. In this way, dynamic injunctions may remain both effective and compatible with the preliminary nature of the proceedings, while avoiding the need for ongoing substantive evaluation.

24. **30)** In determining whether an infringer is rogue/repeat infringer, please select which factors should authorities consider:

- ☒ i. Primary purpose is to commit/facilitate infringement **Yes**
- ☐ i. Primary purpose is to commit/facilitate infringement **No**
- ☒ ii. Flagrancy of infringement **Yes**
- ☐ ii. Flagrancy of infringement **No**
- ☒ iii. Anonymity of infringer **Yes**
- ☐ iii. Anonymity of infringer **No**
- ☒ iv. Silence/inaction despite receipt of legal **Yes**
- ☐ iv. Silence/inaction despite receipt of legal **No**
- ☐ v. Availability of alternative modes/indexes for continuing with infringing activities **Yes**
- ☒ v. Availability of alternative modes/indexes for continuing with infringing activities **No**
- ☒ vi. Prior injunctive orders already issued **Yes**
- ☐ vi. Prior injunctive orders already issued **No**
- ☐ viii. Any other factor? **Yes**
- ☒ viii. Any other factor? **No**

25. **30) (continued)** Please add a brief explanation, if any

No answer provided.

26. **31)** Whether the tests described in questions (28) to (30) should apply equally for different kinds of IP?

☒ i. Copyrights **Yes**

☐ i. Copyrights **No**

☒ ii. Trademarks **Yes**

☐ ii. Trademarks **No**

☒ iii. Designs **Yes**

☐ iii. Designs **No**

☒ iv. Patents **Yes**

☐ iv. Patents **No**

☒ v. Geographical Indications **Yes**

☐ v. Geographical Indications **No**

☒ vi. Trade Secrets **Yes**

☐ vi. Trade Secrets **No**

☐ ix. Others **Yes**

☒ ix. Others **No**

27. **31) (continued)** Please add a brief explanation, if any

No answer provided.

28. **C. Characteristics of Dynamic Injunction**

32) Should Dynamic Injunctions be:

- ☐ i. Granted only for online infringements? **Yes**
- ☒ i. Granted only for online infringements? **No**
- ☐ ii. Granted for a fixed duration and limited extension thereof? **Yes**
- ☒ ii. Granted for a fixed duration and limited extension thereof? **No**
- ☒ iii. Mandate impleadment of subsequently identified websites/platforms? **Yes**
- ☐ iii. Mandate impleadment of subsequently identified websites/platforms? **No**
- ☐ iv. Can be granted for future works of the Plaintiff? **Yes**
- ☒ iv. Can be granted for future works of the Plaintiff? **No**
- ☐ v. Granted only at the interlocutory stage? **Yes**
- ☒ v. Granted only at the interlocutory stage? **No**
- ☐ vi. Allow right to seek clarifications/pushback to implementing entities? **Yes**
- ☒ vi. Allow right to seek clarifications/pushback to implementing entities? **No**
- ☐ x. Others **Yes**
- ☒ x. Others **No**

29. **32) (continued)** Please add a brief explanation, if any

No answer provided.

30. **33)** Apart from the primary rogue infringer, please select other kind of entities to whom directions should be passed:

- ☒ i. Internet Service Providers (ISP) **Yes**
- ☐ i. Internet Service Providers (ISP) **No**
- ☒ ii. Hosting Service providers (HSP) **Yes**
- ☐ ii. Hosting Service providers (HSP) **No**
- ☒ iii. Domain Name Registrars (DNRs) **Yes**
- ☐ iii. Domain Name Registrars (DNRs) **No**
- ☒ iv. E-commerce websites **Yes**
- ☐ iv. E-commerce websites **No**
- ☒ v. Social medial websites **Yes**
- ☐ v. Social medial websites **No**
- ☒ vi. App aggregators **Yes**
- ☐ vi. App aggregators **No**
- ☐ xi. Others **Yes**
- ☒ xi. Others **No**

31. **33) (continued)** Please add a brief explanation, if any

No answer provided.

32. Implementation and monitoring

34) Should there be any particular manner of implementation or monitoring of the Dynamic Injunction?

- ☒ Yes
- ☐ No

33. **34) (continued)** If the answer is YES, what should be the nature of over-sight/monitoring:

- ☐ i. Court appointed representative to certify that subsequent infringements are covered within the order **Yes**
- ☒ i. Court appointed representative to certify that subsequent infringements are covered within the order **No**
- ☒ ii. Affidavits/reports detailing subsequent infringements to which the dynamic injunction need to be extended **Yes**
- ☐ ii. Affidavits/reports detailing subsequent infringements to which the dynamic injunction need to be extended **No**
- ☒ iii. Regular listing of the matter before the authority/court **Yes**
- ☐ iii. Regular listing of the matter before the authority/court **No**
- ☒ iv. Others **Yes**
- ☐ iv. Others **No**

34. **34) (continued)** Please add a brief explanation, if any

If Dynamic Injunctions would be available for IPRs, then these should be fed into the databases operated by the supervisory authority for ISPs (see Q1) so that ISPs automatically comply with said orders.

35. Vacation of a Dynamic Injunction

35) Should a Dynamic Injunction be vacated/terminated during its term?

- ☒ Yes
- ☐ No

36. Vacation of a Dynamic Injunction

35) (continued) If the answer to the question is YES, who may apply for vacation of a dynamic injunction?

- ☐ i. Court on its own motion **Yes**
- ☒ i. Court on its own motion **No**
- ☒ ii. Infringers **Yes**
- ☐ ii. Infringers **No**
- ☒ iii. Any party wrongly affected by the order **Yes**
- ☐ iii. Any party wrongly affected by the order **No**
- ☒ iv. Any person aggrieved **Yes**
- ☐ iv. Any person aggrieved **No**
- ☒ v. Service providers and other entities, apart from infringers **Yes**
- ☐ v. Service providers and other entities, apart from infringers **No**
- ☐ vi. Others **Yes**
- ☒ vi. Others **No**

37. **35) (continued)** Please add a brief explanation, if any

No answer provided.

38. **36)** Please select the possible ground for vacation/termination of dynamic injunction in your jurisdiction:

- ☒ i. Misrepresentation of material fact **Yes**
- ☐ i. Misrepresentation of material fact **No**
- ☒ ii. Conditions warranting grant of dynamic injunction are sufficiently mitigated. **Yes**
- ☐ ii. Conditions warranting grant of dynamic injunction are sufficiently mitigated. **No**
- ☒ iii. Abuse of the Dynamic Injunction? **Yes**
- ☐ iii. Abuse of the Dynamic Injunction? **No**
- ☒ iv. Failure to comply with implementation/reporting requirements? **Yes**
- ☐ iv. Failure to comply with implementation/reporting requirements? **No**
- ☒ v. Unintended chilling effect on legitimate content/speech? **Yes**
- ☐ v. Unintended chilling effect on legitimate content/speech? **No**
- ☒ vi. Public interest of other nature. Please add a brief explanation. **Yes**
- ☐ vi. Public interest of other nature. Please add a brief explanation. **No**
- ☐ vii. Other? **Yes**
- ☒ vii. Other? **No**

39. **36) (continued) vi.** Please add a brief explanation.

No answer provided.

40. **36) (continued)** Please add a brief explanation, if any

No answer provided.

41. **37)** Please comment on any additional issues concerning any aspect of Dynamic Injunctions you consider relevant to this Study Question.

According to the Hungarian working group, in order to introduce Dynamic Injunctions in civil law IP proceedings, provisions similar to those mentioned above should be incorporated into Hungarian IP laws. In this regard, it is also worth noting that the National Intellectual Property Office of Hungary (in Hungarian: Szellemi Tulajdon Nemzeti Hivatala, abbreviated as "SztNH" in Hungarian or "HIPO" in English) – unlike the SARA mentioned above – is not empowered to conduct ex officio administrative investigations, nor does it possess any general supervisory or inspection powers over market participants or rights holders. This means that HIPO is currently not empowered to issue orders such as the blocking orders made by SARA.

The proportionality principle plays a central role, as Hungarian courts — in line with the constitutional protection of freedom of expression under the Fundamental Law of Hungary — must carefully weigh whether the scope of the injunction is no broader than strictly necessary to achieve its legitimate aim, thereby minimising any spillover effect on lawful content.

Hungary's implementation of the InfoSoc Directive (especially Section 8) and the DSA framework means that internet service providers benefit from safe harbour protections that must also be factored into the court's analysis, ensuring that any dynamic blocking order does not unduly burden intermediaries or inadvertently capture content that falls outside the scope of the identified infringement. At the same time, the case law of the Court of Justice of the European Union reflects a gradual clarification of the scope of intermediary obligations in this context. In cases such as L'Oréal v eBay (C-324/09) and Glawischnig-Piesczek v Facebook (C-18/18), the Court confirmed that intermediaries may be subject to targeted, forward-looking obligations aimed at preventing the recurrence of specific infringements, provided that such obligations remain sufficiently precise and do not amount to general monitoring. This approach is also reflected in Hungarian legal literature and, to some extent, in national practice, where courts have shown a willingness to impose more structured obligations in clearly defined circumstances. While this does not alter the fundamental prohibition of general monitoring, it indicates that, within these limits, effective enforcement against repeated or easily reproducible infringements may justify carefully framed measures directed at intermediaries. In this context, dynamic injunctions may be understood as part of this broader development.

42. **38)** Please indicate which industry sector views provided by in-house counsel are included in your Group's answers to Part III.

Pharmaceutical.